

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 03027 Se		FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/003907	International filing date (day/month/year) 14.04.2004	Priority date (day/month/year) 25.04.2003	
International Patent Classification (IPC) or national classification and IPC			
Applicant DYNAENERGETICS GMBH & CO. KG			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>11</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-3 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-8 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/2-2/2 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. IV Lack of unity of invention

1. ☒ In response to the invitation to restrict or pay additional fees the applicant has:
 - ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☒ paid additional fees under protest.
 - ☐ neither restricted the claims nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:
 - ☐ complied with.
 - ☒ not complied with for the following reasons:

See Supplemental Box

4. Consequently, this report has been established in respect of the following parts of the international application:
 - ☒ all parts.
 - ☐ the parts relating to claims Nos. _____

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	3-8	YES
	Claims	1, 2	NO
Inventive step (IS)	Claims		YES
	Claims	1-8	NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1. Reference is made to the following documents:			
D1: EP-A-0 382 615 (SCHLUMBERGER HOLDINGS; SCHLUMBERGER TECHNOLOGY BV (NL); SCHLUMBERG) (1990-08-16) cited in the application			
D2: WO 99/00636 A (ENSIGN BICKFORD CO) (1999-01-07)			
D3: DE-A-32 26 744 (Combinatul Chimic Fagaras) (1983-03-10)			
2. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 lacks novelty (PCT Article 33(2)).			
Document D2 discloses (see page 5, line 25 - page 6, line 22; page 9, line 16 - page 10, line 28; figures 1, 2A-2D; the references between parentheses refer to that document):			
packaging (12) for a detonating fuse (14), the detonating fuse (14) being wound in one plane as a flat coil.			

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Observation: the words "in particular" in claim 1 do not restrict the scope of protection of the claim, i.e. the feature following such wording, that is "for igniting shaped charge perforators in perforation guns used in the petroleum and natural gas industry", is considered entirely optional (see the PCT International Search and Preliminary Examination Guidelines as in force from 25.03.04, Part II, 5.40).

3. Dependent claims 2-7 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step. The reasons are as follows:

The features of claim 2 are disclosed in document D2 and the features of claim 6 are suggested by document D2 (see page 5, line 25 - page 6, line 22; page 9, line 16 - page 10, line 28; figures 1, 2A-2D). The features of claims 3 and 4 are suggested by document D1 (see column 4, lines 15-24; figure 5).

Claims 5 and 7 contain a number of features which relate to different configurations of claim 1. Some of those features are disclosed in the available prior art or the subject matter thereof falls under that which a person skilled in the art routinely does on the basis of familiar considerations, especially since the resulting

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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advantages are readily foreseeable.

4. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 8 does not involve an inventive step (PCT Article 33(3)).
- 4.1. Document D3 is considered the prior art closest to the subject matter of claim 8 and discloses (see page 5, paragraph 5 - page 6, paragraph 2) a method for checking a detonating fuse, the detonating fuse being examined using a radioactive source.
- Observation: the words "in particular" in claim 8 do not restrict the scope of protection of the claim, i.e. the feature following such wording, that is "according to one of claims 1 to 7", is considered entirely optional (see the PCT International Search and Preliminary Examination Guidelines as in force from 25.03.04, Part II, 5.40).
- 4.2. The subject matter of claim 8 thus differs from the known method in that the examination is an X-ray examination.
- 4.3. A person skilled in the art is, however, aware of the fact that the feature whereby the examination is an X-ray examination is equivalent to the feature known from document D3 whereby the examination uses a radioactive source and that the

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

two can be used interchangeably as required.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box IV**Lack of unity of invention**

1. This Authority has determined that the international application contains multiple inventions or groups of inventions which are not linked by a single general inventive concept (PCT Rule 13.1), namely:

I: claims 1-7: packaging for a detonating fuse;

II: claim 8: method for checking a packaged detonating fuse.

The reasons are as follows:

2. The search revealed the following prior art to be relevant to the assessment of unity of invention:

D1: EP-A-0 382 615 (SCHLUMBERGER HOLDINGS;
SCHLUMBERGER TECHNOLOGY BV (NL); SCHLUMBERG)
(1990-08-16) cited in the application

Document D1 discloses packaging for a detonating fuse, in particular for igniting shaped charge perforators in perforation guns used in the petroleum and natural gas industry.

A comparison of the current groups of claims with the stated document shows that the following

Supplemental Box

features provide a contribution to the prior art and can therefore be considered special technical features pursuant to PCT Rule 13.2:

group I: the detonating fuse is wound in one plane as a flat coil;

group II: the detonating fuse is subjected to an X-ray examination prior to delivery.

Observation: the words "in particular" in claim 8 do not restrict the scope of protection of the claim, i.e. the feature following such wording, that is "according to one of claims 1 to 7", is considered entirely optional (see the PCT International Search and Preliminary Examination Guidelines as in force from 25.03.04, Part II, 5.40).

3. The problems solved by the special technical features can be considered the following:

group I: devising packaging for detonating fuses which satisfies legal requirements;

group II: developing a method for checking a packaged detonating fuse.

Those problems are different from one another.

4. The question also arises during examination of whether common special technical features possibly arise from a technical effect, the technical effect of the first group consisting in a

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faultless detonating fuse and the technical effect of the second group being regarded as the checking for faults in a detonating fuse.

This also shows that no mutual technical effect exists. Neither on the basis of the problems addressed by each invention nor as a result of the solutions thereto defined by the special technical features of each invention can a technical interrelationship be established between the inventions which involves a single general inventive concept.

5. Therefore, the stated groups of claims do not meet the requirement for unity of invention (PCT Rules 13.1 and 13.2) on the basis of either the special technical features of the claims or the problems solved thereby.
6. The examination board would like to point out the following:
 - 6.1. Pursuant to PCT Rule 40.2(c), the protest must be accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention.
 - 6.2. The statement that "the application meets the requirement of unity of invention" is nothing more than a mere assertion. This cannot be regarded as a reasoned statement pursuant to PCT Rule 40.2(c), since it does not provide any comprehensible

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reason as to why the applicant believes that unity of invention is established; see decision W 08/89 or decision W 16/92.

6.3. The protest is therefore regarded as unacceptable under PCT Rule 40.2(c).